



Serving the Iowa Legislature

IOWA LEGISLATIVE INTERIM CALENDAR AND BRIEFING

December 9, 2011

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Tuesday, December 13, 2011

Administrative Rules Review Committee

9:30 a.m., Room 116, Statehouse

Sue Lerdal, LSA Fiscal Services Division, Retirement Reception

4:30-6:30 p.m., Noodle Zoo, 601 E. Locust St., Des Moines

Thursday, December 15, 2011

Revenue Estimating Conference

1:00 p.m., Room 116, Statehouse

Monday, December 19, 2011—Rescheduled from December 15, 2011-NOTE
TIME CHANGE

Mental Health and Disability Services Study Committee

9:30 a.m., Second Floor, Former Library, Ola Babcock Miller Building

Tuesday, December 20, 2011

Fiscal Committee of the Legislative Council

1:00 p.m., Room 116, Statehouse

Monday, January 9, 2012

Eighty-fourth General Assembly, 2012 Regular Session Convenes

10:00 a.m., Senate and House of Representatives

January 2012

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Iowa Legislative Interim Calendar and Briefing is published by the Legal Services Division of the Legislative Services Agency (LSA). For additional information, contact: LSA at (515) 281-3566.

AGENDAS

INFORMATION REGARDING SCHEDULED MEETINGS

Administrative Rules Review Committee

Chairperson: Senator Wally Horn

Vice Chairperson: Representative Dawn Pettengill

Location: Room 116, Statehouse

Date & Time: Tuesday, December 13, 2011, 9:30 a.m.

Contact Persons: Joe Royce, LSA Counsel, (515) 281-3084; Jack Ewing, LSA Counsel, (515) 281-6048.

Agenda: Published in the Iowa Administrative Bulletin:

<http://www.legis.state.ia.us/asp/BulletinSupplement/bulletinListing.aspx>

Mental Health and Disability Services Study Committee-NOTE TIME CHANGE

Co-Chairperson: Senator Jack Hatch

Co-Chairperson: Representative Renee Schulte

Location: Second Floor, Former Library, Ola Babcock Miller Building

Date & Time: Monday, December 19, 2011, 9:30 a.m.—Rescheduled from December 15, 2011.

Contact Persons: John Pollak, Legal Services, (515) 281-3818; Patty Funaro, Legal Services, (515) 281-3040; Amber DeSmet, Legal Services, (515) 281-3745.

Agenda: Discuss next steps.

Internet Page: <http://www.legis.iowa.gov/Schedules/committee.aspx?GA=84&CID=541>

Fiscal Committee of the Legislative Council

Co-Chairperson: Senator Robert E. Dvorsky

Co-Chairperson: Representative Scott Raecker

Location: Room 116, Statehouse

Date & Time: Tuesday, December 20, 2011, 1:00 p.m.

Contact Persons: Deb Kozel, Fiscal Services, (515) 281-6767; Dave Reynolds, Fiscal Services, (515) 281-6934; Tim McDermott, Legal Services, (515) 281-8090; John Pollak, Legal Services, (515) 281-3818.

Agenda: Reviews and updates on State Board of Regents efficiency reports, state correctional facilities, Iowa Lottery budgeting process, Medication Therapy Management Pilot Project, delinquent state sales and use tax collections, and Fiscal Services Division reports.

Internet Page: <http://www.legis.iowa.gov/Schedules/committee.aspx?GA=84&CID=46>

GOVERNMENT OVERSIGHT COMMITTEE

November 21, 2011

Senate Chairperson: Senator Thomas Courtney

House Chairperson: Representative Chris Hagenow

Overview. The primary focus of the meeting concerned a review and discussion of Iowa Code chapter 8F and nonprofit sector best practices and compliance aspects relating to the chapter, an update on the Grants Enterprise Management System, a summary of the Preneed Funerals and Perpetual Care Cemeteries Annual Report, and a summary of the Homeland Security and Emergency Management Division E-911 Report.

Iowa Code Chapter 8F. Mr. Ed Cook, Senior Legal Counsel, Legal Services Division, Legislative Services Agency, provided background information relating to the enactment of Iowa Code chapter 8F, Government Accountability—Service Contracts. Mr. Cook provided an overview of the circumstances culminating in the enactment of Iowa Code chapter 8F following a whistleblower complaint and subsequent Auditor of State report concerning the Central Iowa Education and Training Consortium (CIETC), which he characterized as a quasipublic agency receiving and expending government funding. He distributed and described key features of 2006 Iowa Acts, chapter 1153 (SF 2410), creating Iowa Code chapter 8F and addressing the issues and concerns cited in a State Auditor's report relating to CIETC.

Mr. Cook highlighted aspects of the Code chapter defining terms, establishing requirements governing service contracts between a state governmental entity and an intergovernmental or private entity that involves federal or state funds, mandating reporting requirements, providing more expansive review authority for the Auditor of State, enhancing whistleblower protection, and extending open meeting and open records requirements to entities created under Iowa Code chapter 28E, governing the joint exercise of governmental powers.

Committee discussion concerned inquiries regarding the appropriate state agency or authority intervening when a service contract has not conformed to its specifications, the extent to which protection against adverse employer action provides adequate safeguards for a whistleblowing employee, the role of the Auditor of State in overseeing whether contracts are fulfilled and of the Ombudsman's Office in assisting in the investigation of possible Iowa Code chapter 8F violations, and whether local boards and entities fall within the purview of the chapter.

Nonprofit Sector. Mr. Richard Koontz, Director, and Mr. Willard Boyd, President Emeritus of the University of Iowa Larned A. Waterman Iowa Nonprofit Resource Center, distributed a primer on good nonprofit management practices and legal principles, entitled "Iowa Principles and Practices for Charitable Nonprofit Excellence," noting that the principles and practices are premised on nonprofit organization education, self-regulation, and board member training. They also distributed copies of Internal Revenue Service Form 990, which nonprofit organizations must file annually, indicating that the form has been extensively revised to elicit a variety of non-tax-related information addressing the issues which arose in connection with CIETC, including whistleblower protection, document destruction, and excess compensation. They indicated that federal and state regulatory provisions relating to nonprofit organization oversight and accountability are becoming more consistent, and emphasized the value of training board members in the areas of fiduciary duty, conflict of interest, financial literacy, and the importance of independent audits.

Committee discussion included the extent to which private entity board meetings are open to the public, nonprofit fundraising allocation regulation, and the advantages of performing independent audits by both an outside auditing organization and the Auditor of State.

Ms. Shannon Cofield, President, United Way of Central Iowa, provided background information regarding the operation of the local agency, indicating that it is funded at the level of \$24 million and allocates that funding to 60 nonprofit organizations primarily involved with solving education, income, and health-related problems. She stated that United Way emphasizes accountability and transparency, described auditing and oversight measures undertaken on a regular basis, and discussed approval criteria for agencies applying for United Way funding.

Grants Enterprise Management System (GEMS). Mr. David Roederer, Director, Department of Management, accompanied by Ms. Kathie Mabie, GEMS Coordinator, Department of Management, discussed the impact of federal funding on the state's budget and provided an update on the operation of GEMS. Mr. Roederer emphasized the extent to which federal funding is incorporated in the state's budget, and accordingly the significance of tracking federal funding availability and allocation.

Ms. Mabie indicated that implementation of GEMS provides access through IowaGrants.gov, consisting of grant management software facilitating the online automation of agency grant management processes. She described the program as capable of managing the tracking, application, selection, awarding, contracting, monitoring, communications, modification, reporting, close-out, and financial management processes associated with the agency grant administration process. The program is currently in the third year of a five-year implementation process, and is designed to simplify grant administration and provide transparency throughout the process. An agency representative from the Department of Education

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echoed Ms. Mabie's remarks regarding the advantages of the program.

Committee discussion included program funding and current and future anticipated program participation levels by state agencies.

Preneed Funerals and Perpetual Care Cemeteries. Mr. Dennis Britson, Director, Regulated Industries Unit, Iowa Insurance Division, and Mr. Jim Mumford, First Deputy Commissioner, Iowa Securities Bureau, Iowa Insurance Division, discussed the Preneed Funerals and Perpetual Care Cemeteries Annual Report, noting that there has been a shift in the examination of preneed sellers from a three to a five-year cycle. They observed a major trend in cemeteries struggling financially and discussed the enactment of legislation during the 2005 session of the General Assembly requiring new perpetual care cemeteries to establish a trust fund for future needs.

They noted that the fundamental issue facing cemeteries at some point in their existence is when revenue from plot and monument sales ceases and all that remains are maintenance expenses. It was also noted that some maintenance expenses can be extreme, such as after a major storm, and that amounts deposited in trust funds are not intended to be allocated for such purposes. The dilemma faced by Oak Grove Cemetery in Webster County was described as occurring over a number of years in a cemetery located in a small township with a correspondingly small tax base.

Committee discussion included the uncertainty encountered by local and state officials regarding responsibility for and rendering assistance to Oak Grove Cemetery, whether trust fund deposits should be made more accessible, the lack of oversight authority regarding rural cemeteries, and the difficulty sometimes encountered regarding ownership and maintenance responsibilities in relation to rural cemeteries originally established many years ago.

Homeland Security and Emergency Management Division E911 Report. A copy of a summary of the E911 Wireless Surcharge Third Calendar Quarter Report, prepared by Ms. Jennifer Acton, Senior Legislative Analyst, Fiscal Services Division, Legislative Services Agency, was distributed to committee members.

Ms. Barbara Vos, State E911 Program Manager, Homeland Security and Emergency Management Division, discussed the implementation and funding of Next Generation 911, which will facilitate video and texting E911 capability in addition to the current voice transmission.

Committee discussion included reducing the number of public safety answering points, eliminating carrier cost recovery, a federal moratorium on increasing surcharges, and the merits of reallocating funding in favor of increasing law enforcement personnel.

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Internet Page: <http://www.legis.iowa.gov/Schedules/committee.aspx?GA=84&CID=41>

INMATE GERIATRIC AND PSYCHIATRIC PATIENTS STUDY COMMITTEE

November 30, 2011

Co-chairperson: Senator Tom Hancock

Co-chairperson: Representative Gary Worthan

Background. The Legislative Council established an interim study committee requested in 2011 Iowa Acts, SF 510, to examine treatment and placement options for inmate geriatric and psychiatric patients who are under the care, custody, and control of the state, or for patients who are otherwise housed at the Iowa Medical and Classification Center (IMCC) at Oakdale or other correctional facilities for geriatric or psychiatric treatment. A related study by the Departments of Corrections (DOC), Human Services (DHS), Inspections and Appeals, and Public Health required by SF 510 was also submitted to the Study Committee and discussed during this meeting.

Department of Corrections. Mr. John Baldwin, Director of the DOC, spoke to the committee about a study recently conducted by executive branch agencies related to inmate geriatric and psychiatric patients under the care, custody, and control of the state. Mr. Baldwin emphasized the approach undertaken by the state should provide each person with the best opportunity for long-term success while achieving fiscal efficiencies.

First, the state should explore contracting with private nursing homes to house a portion of the geriatric inmates and psychiatric patients in private secure wings. He emphasized the level of risk for all parties involved should be thoroughly discussed prior to such an undertaking. Second, the state could use existing state Mental Health Institute (MHI) space for particular defined services without making these services part of the DHS mental health system. Third, the state may design and finance apartments for groups of offenders and patients who are in need of assisted living. Fourth, subacute

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beds for long-term care could be expanded. Fifth, case management, independent living arrangements, and home community services could be utilized. Finally, existing DOC space may be used if available.

Mr. Baldwin stated if changes are made to existing laws relating to geriatric inmates and psychiatric patients, anywhere from 50 to over 400 inmates could be impacted depending on how the new law is structured. He further stated the average cost for housing an offender at the IMCC is \$157 per day per offender while the average cost for housing an offender in a private nursing home, after Medicaid reimbursement, would be \$58 per day per offender.

Clarinda Treatment Complex (CTC). Mr. Mark Lund, Superintendent of the CTC, discussed whether the Clarinda Mental Health Institute (MHI) portion of the complex would be a viable option to consider for the placement of geriatric inmates and psychiatric patients. The Geropsychiatric Nursing Facility at MHI is the number one ranked nursing home in the state. A 20-bed living unit is currently available for immediate occupancy and another unit would be available after renovations. Each geriatric patient currently residing at MHI had been previously removed from 10 to 15 nursing homes prior to being admitted to MHI.

Co-Chairperson Hancock asked about the medical capacity of MHI. Mr. Lund explained MHI is not an acute hospital program, it is not a referral place for persons with disabilities, and it is not a facility that can take care of persons with brain injuries. It is a geropsychiatric nursing home and a skilled nursing facility. Doctors make rounds every day.

Representative Todd Taylor asked about the security around MHI. Mr. Lund stated the geropsychiatric nursing unit is locked but there is no fence around the facility.

Representative Lisa Heddens asked about the costs per day for the geropsychiatric nursing unit. Mr. Lund responded the per diem cost is \$590 per day per patient, and at the current Medicaid rate for reimbursement the state share would be about \$327 per day per patient.

Board of Parole (BOP). Ms. Elizabeth Robinson, Chairperson of the BOP, spoke to the committee about the geriatric and medical parole. She informed the committee the risk assessment tool utilized by the BOP has been validated four times since its creation and is currently undergoing validation again by the Division of Criminal and Juvenile Justice Planning of the Department of Human Rights (CJJP). Currently, 2.7 percent of active parolees are revoked each month. She stated inmates are assigned a risk score with a score of 2 posing the least risk and a score of 9 posing the most risk. The inmates with the highest risk require a unanimous vote of the members of the BOP in order for such a person to be released on parole. She noted the BOP does consider the geriatric and medical needs of an inmate being reviewed for parole but public safety is an overriding factor when considering a person for parole. Prior to enacting a form of geriatric or medical parole, she suggested the General Assembly conduct public hearings to develop support from the general public.

Department of Human Services. Ms. Jennifer Vermeer, Director of the Iowa Medicaid Enterprise, and Mr. Rick Shults, Division Administrator Mental Health & Disability Services, spoke about Medicaid eligibility with the committee. Ms. Vermeer stated a DOC inmate is only eligible for Medicaid for inpatient hospital services. In order for an inmate to qualify for Medicaid, the inmate first is required to be paroled and classified as disabled or be 65 years of age or older. If a facility is created to house disabled or geriatric inmates who have been paroled, such a facility is required to be less than 16 beds in order to meet Medicaid reimbursement requirements.

Co-Chairperson Hancock asked why facilities are limited to less than 16 beds. Mr. Shults responded that this requirement is a long-standing federal rule to prevent the housing of large numbers of disabled and geriatric populations in one institution. Ms. Vermeer stated policymakers need to identify the inmates to be served, ages, types of health issues, types of treatment needed, and whether a facility is available that will meet the Medicaid reimbursement requirements. Mr. Shults warned policymakers about developing a treatment option for a certain population without knowing the ultimate demand for the treatment.

Representative Hagenow commented this is a complex area and it would be helpful to have an integrated proposal from the various departments involved with these issues.

Next Steps. The committee took no action at the meeting. The Co-chairpersons and the committee will discuss the next steps of the committee at a future date.

LSA Contacts: Joe McEniry, Legal Services, (515) 281-3189; Rachele Hjelmaas, Legal Services, (515) 281-8127.

Internet Page: <http://www.legis.iowa.gov/Schedules/committee.aspx?GA=84&CID=542>